

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TAMALPAIS UNION HIGH SCHOOL  
DISTRICT,

Plaintiff,

v.

D. W.,

Defendant.

Case No. [16-cv-04350-HSG](#)

**ORDER TO SHOW CAUSE**

Re: Dkt. No. 63

Pending before the Court is Defendant D.W.'s motion for attorney's fees under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1415(i)(3). *See* Dkt. No. 63.

On September 21, 2017, the Court denied the parties' cross-motions for summary judgment seeking review of the administrative law judge's decision and affirmed the ALJ's decision in its entirety. *See* Dkt. No. 55 at 28. The Clerk entered judgment that same day. *See* Dkt. No. 56.


D.W. brought a motion for attorney's fees on February 27, 2018, more than five months after the entry of judgment. *See* Dkt. No. 57. But the Federal Rules of Civil Procedure require that a motion for attorney's fees be filed within 14 days after the entry of judgment, unless a statute or court order modifies that deadline. *See* Fed. R. Civ. P. 54(d)(2). This 14-day time limit is "not jurisdictional." *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 889 (9th Cir. 2000) (internal quotation omitted). However, "[f]ailure to comply with the time limit in Rule 54 is a sufficient reason to deny a motion for fees absent some compelling showing of good cause." *In re Veritas Software Corp. Sec. Litig.*, 496 F.3d 962, 972 (9th Cir. 2007) (citing *Kona Enterprises, Inc.*, 229 F.3d at 889–90).

The Court will give counsel for D.W. the opportunity to make a "compelling showing of

1 good cause” as to why the motion for attorney’s fees should not be denied for failure to comply  
2 with Rule 54(d)(2). The Court finds that the rule’s 14-day time limit applies to this action, and  
3 rejects D.W’s arguments to the contrary. Accordingly, counsel is **ORDERED** to file by  
4 December 28, 2018 a statement of five pages or less establishing a “compelling showing of good  
5 cause” for failure to file within the statutory time period. The statement should be supported by a  
6 declaration to the extent counsel relies on factual representations. The matter will remain  
7 submitted once the statement is filed, unless the Court orders otherwise. Failure to timely submit  
8 the statement will result in denial of the motion for failure to comply with Rule 54, without further  
9 notice.

10 **IT IS SO ORDERED.**

11 Dated: 12/6/2018

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13 HAYWOOD S. GILLIAM, JR.  
14 United States District Judge  
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